

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL WESTERN  
ZONE BENCH AT PUNE

ORIGINAL APPLICATION NO. 129 OF 2025 (WZ)

Colva Civic and Consumer Forum

... APPLICANT

VERSUS

The Goa Coastal Zone Management Authority & Ors.

... RESPONDENTS

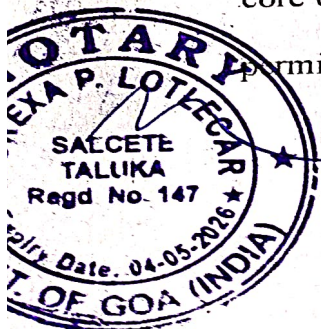
**AFFIDAVIT-IN-REJOINER ON BEHALF OF THE APPLICANT TO**  
**THE AFFIDAVIT-IN-REPLY FILED BY RESPONDENT NO. 1**

I, Mrs. Judith Almeida, President of the Applicant Forum, being duly authorised and conversant with the facts and record of the present proceedings, do hereby solemnly affirm and state as under:

1. I say that the present rejoinder is filed to specifically traverse the statements, contentions, denials and objections raised by Respondent No. 1 in its Affidavit-in-Reply. Save and except what is expressly admitted herein, all allegations, submissions, inferences and contentions to the contrary are denied.

2. At the outset, I say that the reply of Respondent No. 1 does not meet the core case pleaded in the Original Application, namely, that the impugned

permission dated 30.06.2025 has been granted despite non-compliance




*JM*

with the earlier binding direction dated 03.07.2019 requiring not only demolition of illegal structures on Survey No. 96/1, Betalbatim, but also restoration of the sand dunes on the subject property to their original condition. The reply seeks to justify the impugned permission by treating demolition alone as sufficient compliance and by ignoring the independent and mandatory restoration component of the earlier order.

3. With regard to paragraph 1 of the reply, I say that the contents thereof are formal and matters of record.
4. With regard to paragraph 2 of the reply, I say that the reliefs sought in the Original Application deserve to be granted. The reply discloses no ground whatsoever to deny the substantive environmental reliefs sought by the Applicant.
5. With regard to paragraphs 3 and 4 of the reply, I deny that the present Original Application is not maintainable. I say that the Applicant had initially challenged the impugned permission by filing Appeal No. 430 of 2025 (WZ). By order dated 09.09.2025, this Hon'ble Tribunal permitted withdrawal of the appeal with liberty to file appropriate proceedings under the appropriate provision, since the impugned communication was a permission/NOC and not a direction under Section 5 of the Environment




(Protection) Act. Thereafter, by order dated 10.11.2025, this Hon'ble Tribunal was pleased to admit the present Original Application, expressly recording that the earlier appeal had been withdrawn because an Original Application would lie. The plea of non-maintainability is thus wholly misconceived and contrary to the very orders passed by this Hon'ble Tribunal in these proceedings. The orders of this Hon'ble Court dt. 09.09.2025 and 10.11.2025 are annexed and marked hereto as **Annexure A1 Colly** for the sake of this Hon'ble courts convenience.

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6. I further say that the contention as to limitation is equally untenable. The impugned permission is dated 30.06.2025. The present Original Application was instituted on 15.10.2025 and is clearly within time even reckoned under Section 14 read with Section 18 of the National Green Tribunal Act, 2010. The attempt to reopen either maintainability or limitation is therefore meritless.
7. With regard to paragraph 5 of the reply, I say that the contents thereof are matters of record.
8. With regard to paragraph 6 of the reply, I deny the contents thereof insofar as Respondent No. 1 seeks to suggest that the impugned permission is lawful merely because it is described as being for a "temporary" structure.

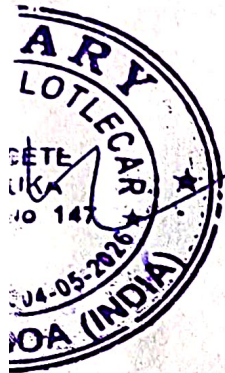


I say that under the CRZ Notification, 2011, no fresh construction is permissible in the No Development Zone within 0 to 200 metres from the High Tide Line except to the limited extent specifically permitted by law.

In any event, Respondent No. 1 has no authority to permit a structure which in substance is of a permanent nature under the guise of describing it as temporary or seasonal.

9. I say that the impugned permission itself permits use of GI pipes and mild steel/pre-fabricated framework. Such material is not incidental or immaterial. The nature of the structural components goes directly to the true character of the construction. A structure of substantial built-up area supported by GI pipes and other pre-fabricated structural material cannot be casually treated as a purely temporary and seasonal shack. The legality of the permission must be judged by substance and not by label.

10. I say that in this context the impugned permission is ex facie vulnerable because it authorises a construction of considerable dimensions with structural elements indicative of permanence, thereby defeating the very restrictions applicable to the NDZ. Respondent No. 1 has failed to show how such permission conforms to the CRZ Notification, 2011.



11. With regard to paragraph 7 of the reply, I deny the contents thereof. I say that the order dated 03.07.2019 did not merely require demolition of the illegal structures. It also specifically and mandatorily directed restoration of the sand dunes on the subject property to their original condition, in coordination with the Goa State Biodiversity Board and at the cost of Respondent No. 3. Respondent No. 1 has sought to dilute this obligation by loosely introducing the expression "*if any*" while referring to sand dunes/restoration. No such qualification exists in the operative directions of the order dated 03.07.2019. The obligation to restore was mandatory and unconditional.

12. I say that once Respondent No. 1 itself had issued a binding direction requiring restoration of the sand dunes to their original condition, it could not subsequently process or grant a fresh permission on the same site without first ensuring full and verified compliance with that restoration direction. The reply is wholly silent on any scientifically verified restoration having been completed in accordance with the earlier order.

13. With regard to paragraph 8 of the reply, I deny the contents thereof. I say that Respondent No. 1's own record shows that the coastal stretch at Betalbatim contains a substantial extent of unidentified sand dunes. In its 279th meeting, the GCZMA recorded that approximately 67,347 square



metres of unidentified sand dunes exist on Betalbatim beach. This material completely undermines any simplistic or absolute denial of dune presence at or around the subject site.

14.I further say that the elevation profile annexed and marked hereto as Annexure A2 supports the Applicant's case that the subject property and its immediate surroundings display dune characteristics. The elevation profile shows substantial rise in the terrain across the relevant transects in and around Survey No. 96/1. This is consistent with the Applicant's submission that the site forms part of dune topography and coastal sand-dune ecology. Respondent No. 1 cannot wish away such material merely by a bare denial.

15.I say that environmental decision-making in such a sensitive coastal setting cannot proceed on the basis of rigid cartographic formalism or selective reading of maps while ignoring site conditions, ground-truth material, topographical evidence, and the authority's own earlier findings and directions. Even assuming that a particular plan does not expressly mark every dune feature, that cannot nullify ground realities, nor can it absolve Respondent No. 1 of its obligation to proceed cautiously and in accordance with the precautionary principle.



16. With regard to paragraph 9 of the reply, I say that, at the highest, only the demolition part of the earlier order appears to have been partially acted upon. There is no material produced by Respondent No. 1 showing that restoration of the sand dunes was ever completed, verified, supervised in the manner directed, or certified as having restored the site to its original condition. The distinction between demolition and restoration is fundamental. Demolition removes unlawful structures; restoration repairs ecological damage. The former cannot be treated as equivalent to the latter.



17. I say that the inspection material relied upon by Respondent No. 1 does not establish completed restoration. On the contrary, the Applicant's case throughout has been that restoration remained unaddressed or at any rate unverified. Respondent No. 1 was therefore not justified in proceeding on the footing that compliance was complete.

18. With regard to paragraph 10 of the reply, I deny the contents thereof. I say that once the earlier direction dated 03.07.2019 had not been completely complied with, Respondent No. 1 could not lawfully have granted the impugned permission dated 30.06.2025. The impugned permission suffers from non-application of mind, ignores a binding prior direction of the same authority, and proceeds as though the site stood ecologically restored, when

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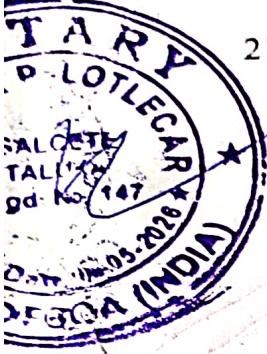
no such position was established.

19. I say that paragraph 10 of the reply also deserves to be rejected because it overlooks the cumulative effect of the facts pleaded in the Original Application: namely, that the site lies within the NDZ; that the subject property bears the history of prior illegal structures; that demolition and restoration had been directed by binding orders; that only demolition was at best partially addressed; that restoration remained unverified; that the Applicant had objected to any fresh permission on that basis; and yet a fresh permission for a large structure with supporting GI pipe and pre-fabricated framework was granted. These facts, taken together, clearly show illegality, arbitrariness and failure of due application of mind.

20. With regard to paragraph 11 of the reply, I deny the contents thereof. I say that no permission could have been granted in law on the subject property because: first, the earlier order dated 03.07.2019 had not been completely complied with; second, the structure proposed and permitted is not truly temporary in nature but bears attributes indicative of permanence; and third, no fresh construction of this nature could have been permitted in the No Development Zone as applicable to the site. The impugned permission is therefore contrary to the CRZ Notification, 2011 and liable to be set



aside.



21. I say that Respondent No. 1, being the coastal regulatory authority, was required to act with heightened caution and strict fidelity to environmental norms. Instead, it failed to insist upon verified restoration, failed to adequately consider the Applicant's objections, failed to apply the precautionary principle, and granted a fresh permission in a coastal area already subjected to prior enforcement action. This amounts to abdication of statutory duty.

22. With regard to paragraph 12 of the reply, I deny the contents thereof and reiterate that the impugned permission dated 30.06.2025 has not been granted in conformity with the CRZ Notification, 2011. The impugned permission is contrary to the regulatory regime governing NDZ areas, contrary to the earlier binding order dated 03.07.2019, contrary to the environmental material on record, and contrary to the obligation of Respondent No. 1 to protect and restore coastal ecology.

23. I say that the reply of Respondent No. 1 does not answer the real issue in the matter, namely, whether a fresh permission could lawfully have been granted on the same property without prior verified restoration of the sand dunes to their original condition. The answer to that issue is plainly in the



negative.

24. In the circumstances aforesaid, I respectfully submit that the reply of Respondent No. 1 is liable to be rejected, the preliminary objections raised therein deserve to be overruled, and the Original Application deserves to be allowed in terms of its prayers.

25. I say that the contents of the present affidavit are true and correct to my knowledge and belief and nothing material has been concealed therefrom.

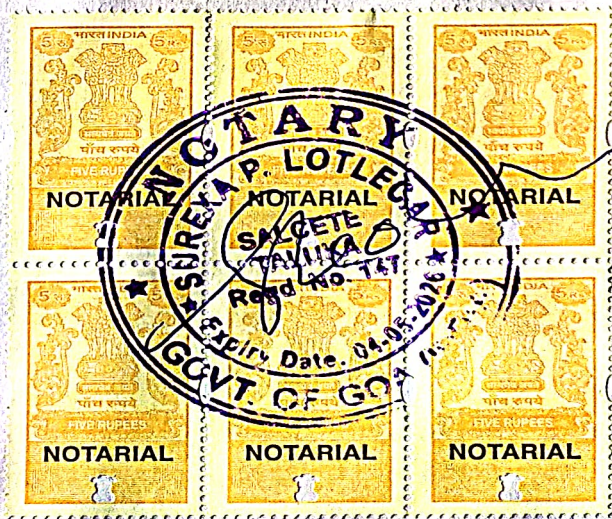
Solemnly affirmed at MARGAO Goa,  
on this 15<sup>th</sup> day of April, 2026

*[Signature]*  
DEPONENT  
CONSUMER FORUM  
No. 2509/GOA

Solemnly affirmed before me by  
Mrs. Judith Almeida  
who is identified by \_\_\_\_\_

to whom I personally know  
Reg. No. 3721 / 2026  
Date: 15 / 04 / 2026

*[Signature]*  
SUREXA P. LOTLECAR  
NOTARY MARGAO  
SALCETE TALUKA  
STATE OF GOA (INDIA)



Item No.2

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH, PUNE**

[THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)]

**APPEAL NO.430 OF 2025 (WZ)  
WITH  
I.A. NO.668 OF 2025**

Colva Civic & Consumer Forum through  
Its President Mrs. Judith Almeida

... **Applicant**

**Versus**

GCZMA & Ors.

... **Respondents**

Date of hearing : 09.09.2025

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER  
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Applicant : Mr. Sherwyn Filipe Francisco Correia, Advocate

Respondents : Ms. Supriya Dangare, Advocate for R-1 and R-2  
Mr. Abhijit Gosavi, Advocate along with Mr. Shivshankar  
Swaminathan, Advocate for R-3

**ORDER**

1. This appeal has been filed seeking quashing of permission/approval dated 30.06.2025, granted by respondent No.1 – GCZMA for the proposed erection of a temporary restaurant/shack (approximately 340.84 sq.mtrs) and wooden/bio-fencing (145.20 running mtrs.) on Survey No.96/1, Betalbatim, Salcete – Goa, on the ground that earlier order dated 03.07.2019, issued by the GCZMA itself under Section 5 of the Environment (Protection) Act, directing respondent No.3 to demolish all illegal structures identified as “M/s Mickey’s Bar and Restaurant” on Survey No.96/1 and restoration of the sand dunes on that property (involved herein) to their original condition and to take necessary measures in coordination with the

Goa State Bio-Diversity Board (GSBB) to restore the sand dunes. Now, the GCZMA has granted permission/approval for construction of above number of temporary structures on the same survey number at the same site, which is illegal.

2. Learned counsel for respondent No.3 has opposed admission of this appeal saying that this permission/approval would not fall in the category of “direction” under Section 5 of the Environment (Protection) Act and hence, the same cannot be challenged under Section 16(g) of the National Green Tribunal Act, 2010. He has also relied on the judgment of the Hon’ble Supreme Court dated 18.02.2019 delivered in the case of Tamil Nadu Pollution Control Board Vs. Sterlite Industries (India) Limited; (2019)19 SCC 479, wherein in para Nos.36 and 37, following is held:

*“36. We have referred to the orders dated 12.04.2018, 23.05.2018, and 28.05.2018 passed by the TNPCB under Sections 33A and 31A of the Water Act and Air Act respectively. At this juncture, it is important to state that Section 33B of the Water Act and Section 31B of the Air Act were both enacted on 18.10.2010, which is the very date on which the NGT Act came into force. What is important to note is that whereas Section 33B(c) of the Water Act read with Section 16(c) of the NGT Act make it clear that directions issued under Section 33A of the Water Act are appealable to the NGT, directions issued under Section 31A of the Air Act are not so appealable. In fact, the statutory scheme is that directions given under Section 31A of the Air Act are not appealable. This being the case, all the aforesaid orders, being composite orders issued under both the Water Act and the Air Act, it will not be possible to split the aforesaid orders and say that so far as they affect water pollution, they are appealable to the NGT, but so far as they affect air pollution, a suit or a writ petition would lie against such orders. Shri Sundaram’s argument that these orders being substantially relatable to the Water Act would, therefore, not hold, as such orders are composite orders made both under the Water Act and the Air Act. Equally disingenuous is the reference to Section 14 of the NGT Act which only refers to the original jurisdiction of the NGT and not to its appellate jurisdiction. Also, to state generally that the subject matter of environment lies with the NGT, is an argument of despair that must be dismissed for the reason that as held by us hereinabove, an*

appeal being a creature of statute, a statute either confers a right of appeal or it does not. In the present case, we have seen that so far as directions issued under [Section 31A](#) of the Air Act are concerned, there is no right of appeal conferred by the [Air Act](#) read with the [NGT Act](#). The ingenious argument made by Shri Sundaram that, in any case, a “direction” under [Section 31A](#) of the Air Act is nothing but an “order”, and would, therefore, be appealable as such under [Section 31B](#) of the Air Act read with [Section 16\(f\)](#) of the NGT Act would drive a coach- and-four through the statutory scheme that has just been adverted to. We have seen how all the appellate proceedings to the NGT, whether under the [Air Act](#), the [Water Act](#), or the [NGT Act](#) have been brought into force on the same date. Whereas the identical power to give directions by the Board under the [Water Act](#) is appealable to the NGT, the same power to give directions by the Board under the [Air Act](#) is not so appealable. The absence of any mention of [Section 31A](#) in [Section 31B](#) of the Air Act, given the statutory scheme as aforesaid, makes it clear that even this argument must be rejected. Also, “directions” that are issued under [Section 31A](#) of the Air Act are of a different quality from “orders” referred to in [Section 31](#) of the same Act. Directions are issued in the exercise of powers and performance of functions under the Act and are not quasi-judicial in nature, whereas orders that are appealed against under [Section 31](#) are quasi-judicial orders made, inter alia, under [Section 21](#) of the Air Act. For this reason also, we cannot accept the aforesaid argument of Shri Sundaram. However, Shri Sundaram argued, with particular reference to the explanation to [Section 31A](#) of the Air Act that “directions” partake of the nature of “orders” when closure of any particular industry or stoppage of supply of electricity qua any single industry is made, and therefore, such directions are appealable as orders under [Section 31](#) of the Air Act. This argument is also of no avail as [Section 33A](#) of the Water Act contains an identical explanation to that contained in [Section 31A](#) of the Air Act. Despite this, the legislative scheme, as stated hereinabove, is that so far as directions under the [Water Act](#) are concerned, they are appealable, but so far as directions under the [Air Act](#) are concerned, they are not appealable. Hence, reference made to P. Ramanatha Aiyer’s Law Lexicon and Black’s Law Dictionary, which state that in certain circumstances, orders are also directions and vice versa, would not apply to the present case, given the express statutory scheme. In this connection, Shri Sundaram cited [Kanhiya Lal Omar v. R.K. Trivedi](#), (1985) 4 SCC 678, and relied upon paragraph 17, where this Court held, referring to [Article 324\(1\)](#) of the Constitution of India, that a “direction” may be equated with a specific or a general order. The context of [Article 324](#) being wholly different, it is obvious that this authority also has no application, given the statutory scheme in the present case.

37. Shri Sundaram then cited *Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupeshkumar Sheth*, (1984) 4 SCC 27. In this judgment, the High Court had struck down Regulation 104 of the Maharashtra Secondary and Higher Secondary Boards Regulations, 1977, by which, no re-evaluation of an answer book given in an examination can be undertaken. In setting aside the High Court judgment, this Court stated that the process of re-evaluation of answer papers is extremely time consuming, would involve several thousand man-hours, and is bound to throw the entire system out of gear. Further, it is in public interest that the results of public examinations, when published, should have some finality attached to them [see paragraph 27]. It is in this context that this Court held:

29. .... It is equally important that the Court should also, as far as possible, avoid any decision or interpretation of a statutory provision, rule or bye-law which would bring about the result of rendering the system unworkable in practice. ....”

*To boldly lift the aforesaid sentence and apply it to the fact situation here would be a huge leap which we are not prepared to make. Further, given the statutory scheme as aforesaid, it is not possible for us to provide an appeal where there is none in the guise of making an appellate system workable in practice.”*

3. Having drawn our attention to the above, it is urged by learned counsel for respondent No.3 that the Hon’ble Supreme Court has made clear distinction between an “order” and “direction”, because directions are issued in exercise of powers and performance of functions under the Act and are not quasi-judicial in nature, whereas orders that are appealed against made under Section 31 of the Air Act are quasi-judicial orders made, inter alia, under Section 21 of the Air Act.

4. Learned counsel for respondent No.3 further argued that there is a procedure adopted while passing the final order by the Authority concerned i.e. an opportunity of hearing needs to be given to the parties concerned, objections need to be called from the concerned and after considering the same, directions are issued, but while passing an order, whatever is

concluded in front of the Authority, same is considered and thereafter the order is passed.

5. We find that this is in relation to the provisions of the Water ((Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 where there is no appeal provided under the Act. But in the case in hand, whether this ruling would be applicable or not, we have confusion in our mind.

6. At this stage, learned counsel for the applicant has agreed to withdraw this appeal and file an application under Section 14 of the National Green Tribunal Act, 2010, which has wider jurisdiction, wherein all issues, which are raised herein, may be addressed. In view of the prayer made by the learned counsel for the applicant, we permit him to withdraw this appeal with liberty to file appropriate proceeding under appropriate provision/s, subject to limitation. Accordingly, present appeal is dismissed as withdrawn.

7. In view of dismissal of the Appeal, I.A. No.668 of 2025 stands disposed of.

7. No order as to costs.

**Dinesh Kumar Singh, JM**

**Dr. A. Senthil Vel, EM**

September 09, 2025  
APPEAL NO.430 OF 2025 (WZ)  
npj

Item No.2

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH, PUNE**

[THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)]

**ORIGINAL APPLICATION NO.129 OF 2025 (WZ)**

Colva Civic and Consumer Forum

.....Applicant

***Versus***

The Goa Coastal Zone Management Authority &amp; 3 Ors.

....Respondents

**Date of hearing: 10.11.2025**

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER  
HON'BLE MR. SUDHIR KUMAR CHATURVEDI, EXPERT MEMBER**

Applicant : Ms. Sherwyn Filipe Francisco Correia, Advocate

**ORDER**

1. By the present Original Application, the permission/approval for the proposed erection of a temporary restaurant/shack and wooden/bio-fencing in the property bearing Survey No.96/1, Betalbatim, Salcete, Goa, in terms of the CRZ Notification 2011, has been assailed, alleging that the applicant was an Intervenor in ***Suo Motu Writ Petition No.02 of 2006*** before the Hon'ble High Court of Bombay at Goa, in which illegal structures in Survey No.96/1, Betalbatim were challenged. Pursuant to the Hon'ble High Court's directions in that matter, Respondent No.1-GCZMA took up the issue and, after due inquiry, passed a demolition order dated 03.07.2019 against the illegal structures on Survey No. 96/1. The applicant herein was a party to the proceedings before the GCZMA.

2. It is further submitted in this Original Application that the dispute involved in the present Original Application highlights the erroneous

issuance of the Permission dated 30.06.2025 by Respondent No.1- GCZMA to Respondent No.3-Project Proponent because the GCZMA granted the said permission despite the fact that Respondent No.3 failed to comply with the previous binding directions to restore the sand dune on the property. A copy of the said order passed by Respondent No.1 is annexed as Annexure-2 from page nos.26 to 36 of the paper book, wherein it was directed that Respondent No.3 shall demolish all the structures (M,N,O and WC) as shown in the survey plan attached to the Inquiry Committee Report in Survey No.96/1 of Betalbatim Village. Further, Respondent No.1 directed therein to take necessary measures to restore the Sand Dunes to its original condition, in coordination with the Goa State Bio Diversity Board, for which all costs for such restoration shall be borne by Respondent No.3.

3. The main allegation in the present Original Application is that the impugned permission has been granted by Respondent No.1- GCZMA despite the fact that at the site in question, restoration work was not done by Respondent No.3 and fresh permission at the same site has been granted for raising the above-mentioned construction.

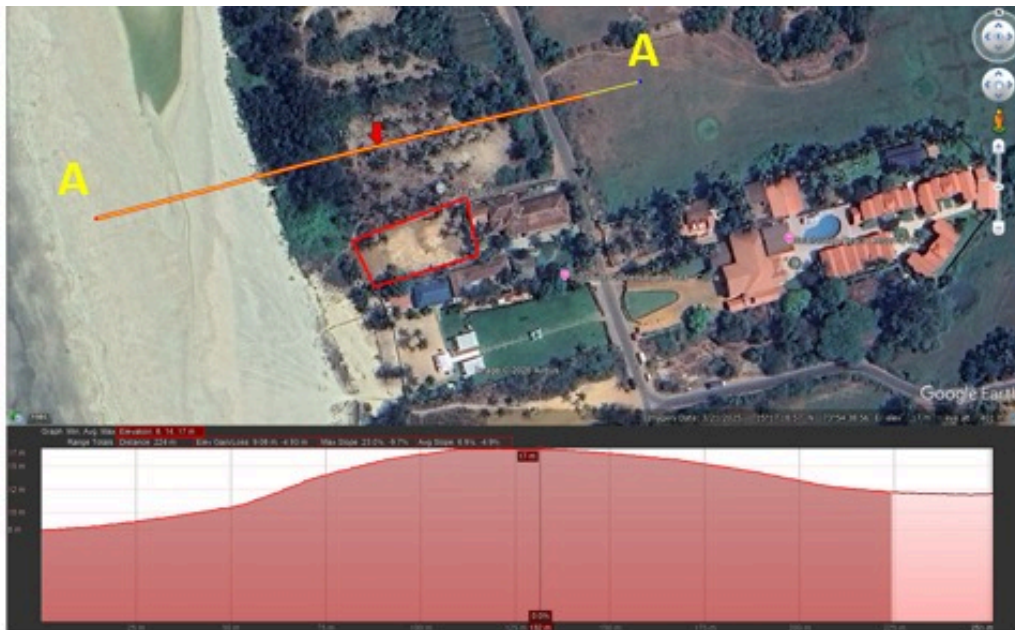
4. Learned counsel for the applicant has also pointed out that earlier applicant has filed **Appeal No.430 of 2025 (WZ) (Colva Civic & Consumer Forum through its President Mrs. Judith Almeida vs. GCZMA & Ors.)** seeking quashing of the permission/approval dated 30.06.2025 (challenged herein). But this Tribunal had come to the conclusion that the same was not maintainable as an appeal and that an Original Application would lie for the same and accordingly, the applicant was granted permission to withdraw the said appeal by order dated 09.09.2025 with liberty to file appropriate proceeding under appropriate provision/s.

5. We to admit this appeal.
6. Registry is directed to issue Notice to the Respondents, returnable within 04(four) weeks.
7. Appellant is directed to take necessary steps for service to the Respondents by both ways (Dasti as well as by Registered Post) and also on available e-mail/WhatsApp, and submit service affidavit within one week.
8. Appellant is also directed to supply copy of the appeal and relevant documents to the Respondents within a week.
9. Respondents are directed to submit their reply affidavits within four weeks through e-filing and also circulate the same to the appellant and also the other Respondents by available e-mail.
10. Rejoinder, if any, is directed to be submitted within one week thereafter.
11. Put up this matter for further consideration on 17.12.2025.

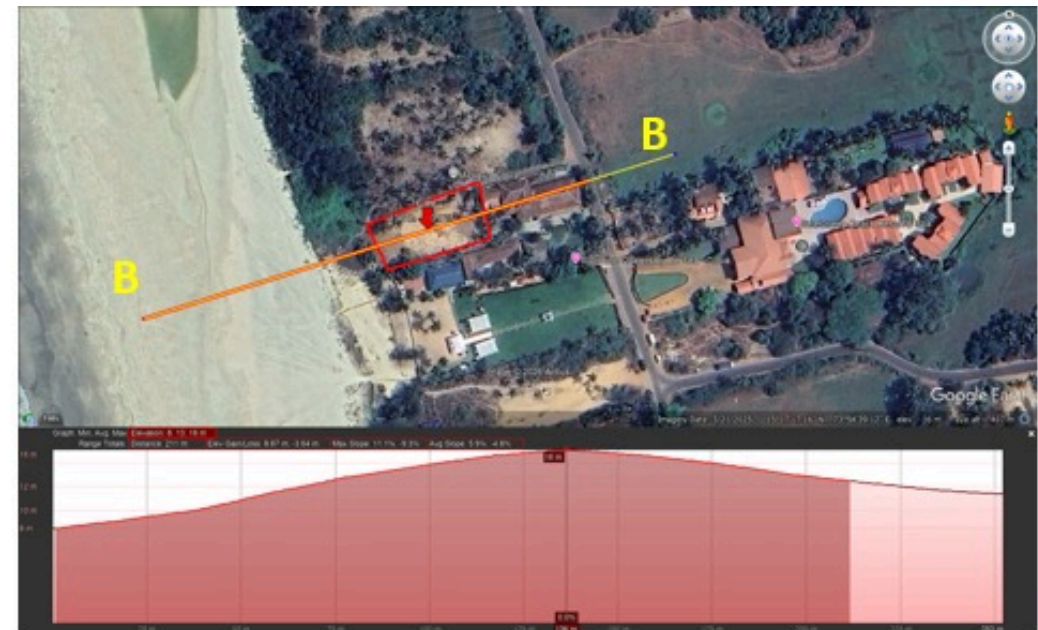
**Dinesh Kumar Singh, JM**

**Sudhir Kumar Chaturvedi, EM**

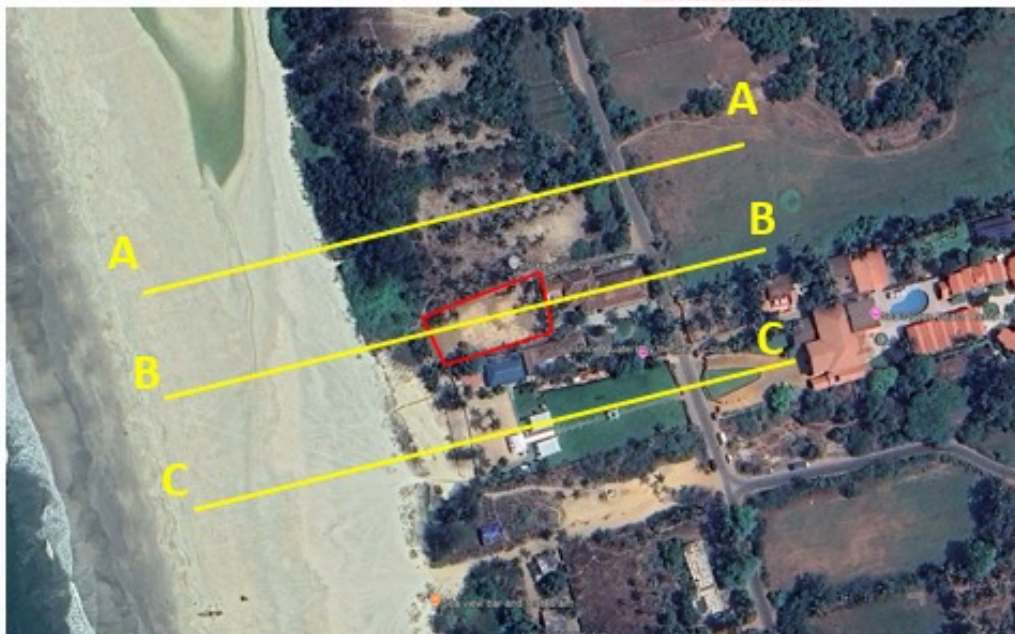
November 10, 2025  
ORIGINAL APPLICATION NO.129 OF 2025 (WZ)  
P.Kr



Elevation profile shows Sand Dune rising from 8m to 17m at location A-A North of S. No.96/1, Betalbatim village.



Elevation profile shows Sand Dune rising from 8m to 16m at location B-B within Survey No.96/1, Betalbatim village.



Key Plan in Google Satellite Imagery on 21/03/2025 showing the location of the three Elevation profile generated in and around S. No.96/1, Betalbatim village.



Elevation profile shows Sand Dune rising from 9m to 16m at location C-C South of S. No.96/1, Betalbatim village.